

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

TROY GROVE QUARRY, A DIVISION OF  
RIVERSTONE GROUP, INC., VERMILION  
QUARRY, A DIVISION OF RIVERSTONE  
GROUP, INC.

Employer

and

CRAIG S. PARSONS  
Petitioner

and

Case 25-RD-269960

INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 150, AFL-CIO  
Union

ORDER

The Employer's Request for Review of the Regional Director's Supplemental Order Granting Union's Request to Block Further Processing of Petition is granted as it raises substantial issues warranting review. Under Section 103.20 of the Board's Rules and Regulations, the filing or pendency of a related unfair labor practice charge no longer warrants holding a representation petition in abeyance before an election occurs. For a small subset of charges, the ballots will be impounded after the election. See Section 103.20(c)<sup>1</sup>. But, for all other charges, the election will proceed, the ballots will be promptly opened and counted, and the certification of results or representative will be held in abeyance pending "a final disposition of the charge and a determination of its effect, if any, on the election petition." See Sections 103.20(b) and (d); see also Representation-Case Procedures: Election Bars; Proof of Majority Support in Construction-Industry Collective-Bargaining Relationships, 85 Fed. Reg. 18366,

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<sup>1</sup> As described in Sec. 103.20(c) of the Board's Rules and Regulations, that subset consists of charges that allege violations of Sec. 8(a)(1) and 8(a)(2) or Sec. 8(b)(1)(A) of the Act and challenge the circumstances surrounding the petition or the showing of interest submitted in support of the petition as well as charges that allege that an employer has dominated a union in violation of Sec. 8(a)(2) and seeks to disestablish a bargaining relationship. For this category of charges, the ballots shall be impounded for up to 60 days from the conclusion of the election if the charge has not been withdrawn or dismissed prior to the conclusion of the election. If a complaint issues with respect to such a charge before the end of the 60-day post-election period, the ballots shall remain impounded until there is a final determination regarding the charge and its effect, if any, on the election petition. If the charge is withdrawn or dismissed at any time during that 60-day period, or if the 60-day period ends without a complaint issuing, the ballots shall be promptly opened and counted. Sec. 103.20(c).

18378-18780 (April 1, 2020) (explaining that “our final-rule amendment retains the proposed vote-and-impound procedure for only a limited category of cases, but *certification* will in any event be postponed for some period of time if a blocking charge is still pending when an election concludes;” and that “we agree with commenters who state that it would be preferable for ballots to be counted immediately after the conclusion of the election, but *holding the certification* of the election results in abeyance pending the resolution of the unfair labor practice charge”) (emphasis added).

Here, the Regional Director placed a hearing on challenges and objections in abeyance, as opposed to the certification of results or representative, based on pending charges. Most of those charges fall under the general rule of Section 103.20(b). Although one of the charges here (that involving alleged unlawful assistance with decertification efforts) is governed by Section 103.20(c), a complaint on that charge was not issued within 60 days of the election. Accordingly, we reverse the Regional Director’s blocking determination and remand the case to the Regional Director for further processing. The Regional Director shall continue processing the petition up to the point at which a certification would otherwise issue. If, at that point, the charges remain pending, the Regional Director will hold the petition in abeyance pending a final disposition of the charges; if the charges reach final disposition in the interim, the Regional Director may determine the effect of the charges on the petition, if any, and proceed accordingly.<sup>2</sup>

LAUREN McFERRAN,	CHAIRMAN
MARVIN E. KAPLAN,	MEMBER
JOHN F. RING,	MEMBER

Dated, Washington, D.C., September 28, 2021.

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<sup>2</sup> Chairman McFerran adheres to her view, expressed in her dissent from the Board’s Notice of Proposed Rulemaking, see 84 FR 39930 (August 19, 2019), that the Board’s recent changes to its longstanding practices regarding blocking charges codified in Section 103.20 of the Board’s Rules and Regulations, were ill-advised and contrary to the policies of the Act. If the policy displaced by the new rule were still in place, the hearing on challenges and objections formerly scheduled by the Regional Director would remain in abeyance pending the disposition of the unfair labor practice charges; the Region would not consume its valuable resources on a proceeding which may be rendered moot in whole or in part by that disposition; and the Board would not now have to address – perhaps prematurely -- the issues raised in the Union’s request for review of the Regional Director’s decision on challenged ballots and objections of April 9, 2021. Chairman McFerran acknowledges, however, that that under the Board’s current law, as embodied in the rule, the Employer’s request for review of the Regional Director’s supplemental decision of May 3, 2021, should be granted.